

**REMARKS**

This Amendment is in response to the Office Action mailed on 11/19/2003. In the Office Action, claims 1-3, and 5 were rejected under 35 U.S.C. § 102(e); claims 4, and 6-36 were rejected under 35 U.S.C. § 103(a). Reexamination and reconsideration in view of the amendments and the remarks made herein is respectfully requested.

Applicant has amended claims 1, 4-10, 15-16, 23, 25-32, and 35 by this response. Applicant has added new dependent claim 37. No claim has been cancelled. Accordingly, claims 1-37 are now pending. Of the pending claims, claims 1, 10, 23, 26, 29, 32, and 35 are independent claims.

Applicant believes that no new matter has been added by this response.

**I) American Inventors Protection Act of 1999 ("AIPA")**

In Section 4 of the Office Action, it is stated that the American Inventors Protection Act of 1999 ("AIPA") and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Applicant notes that none of the cited references in the Office Action are the result of an international application.

The above referenced patent application was filed on September 28, 2001, after AIPA's effective date of November 29, 2000. While 35 USC 102(e) prior to the amendment by the AIPA was cited in Section 4 of the Office Action, Applicant

understands that the AIPA amendments to 35 USC 102(e) have been used in the examination of this patent application.

II) Claim Rejections Under 35 U.S.C. § 102(e)

In section 5 of the Office Action, claims 1-3 and 5 were rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent 6,265,977 issued to Vega, et al. ("Vega"). [Office Action, page 2]. Applicant respectfully traverses this rejection.

Applicant has amended independent claim 1 to clarify the claimed invention.

"To anticipate a claim, the reference must teach every element of the claim. 'A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.' *Verdegaal Bros. V. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). ... 'The identical invention must be shown in as complete detail as is contained in the claim.' *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989)." [MPEP § 2131, 8<sup>th</sup> Edition, Rev. 1, Feb. 2003, Pg. 2100-701].

The Office Action alleges that Vega "discloses radio frequency identification tag apparatus and related method, which includes means of reading (through the reader 804 as shown in col. 9, lines 10+) an identification tag 100 [which could be a smart card, an electronic card, an IC card and the like comprising of a memory to store predetermined data/information, a processor/CPU, an antenna for transmission/reception means] worn by a guest/user [there are many ways of wearing an

identification card/tag, attachment onto the body of a person or thing; through a wise trap or a pendant] [sic] to obtain a tag identifier (col. 4, lines 20-23); accessing a guest/user data object using said tag identifier 100, 800 (col. 9, lines 25+); and modifying [i.e. increment or decrement the cash value of the card/tag at point of sale] a sales amount of the item or service from a monetary credits information stored in a monetary credits data field of said guest data object by a sales amount of the item or service (col. 11, lines 25+)." [Office Action, page 2, line 22 to page 3, line 8]. Applicant respectfully disagrees.

Generally, Vega does not disclose a method of selling an item or service to a guest at a point-of-sales (POS) terminal within a coverage area.

Specifically with respect to independent claim 1, Vega at least does not disclose "accessing a **guest data object stored in a server** using said tag identifier" as recited in Applicant's amended independent claim 1. (emphasis added) [Claim 1, lines 6-7].

Moreover regarding independent claim 1, Vega does not disclose "modifying monetary credits information by a sales amount of said item or service, said **monetary credits information stored in said server** within a monetary credits data field of said guest data object" as recited in Applicant's amended independent claim 1. (emphasis added) [Claim 1, lines 8-11].

Thus, Applicant respectfully submits that Vega does not anticipate Applicant's claimed invention recited in independent claim 1.

Rejected dependent claims 2-3 and 5, having additional limitations, depend from independent claim 1.

Applicant believes it has placed independent claim 1 in condition for allowance such that dependent claims depending there from with further limitations are also in condition for allowance. Applicant respectfully submits that dependent claims 2-3 and 5 are also in condition for allowance.

Accordingly, Applicant respectfully requests the withdrawal of the 35 USC 102(e) rejection of claims 1-3, and 5.

### III) Claim Rejections Under 35 U.S.C. § 103(a)

In section 7 of the Office Action, claim 4 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Vega in view of U.S. Patent 5,936,527 issued to Isaacman, et al. (Isaacman). [Office Action, page 4]. Applicant respectfully traverses this rejection.

In section 8 of the Office Action, claims 6-36 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Vega in view of U.S. Patent 6,608,563 issued to Weston, et al. (Weston). [Office Action, page 4]. Applicant respectfully traverses this rejection.

Applicant has amended independent claims 1, 10, 23, 26, 29, 32, and 35 to clarify the claimed invention.

"To establish a prima facie case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when

combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and not based on applicant's disclosure. In re Vaeck, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991)" [MPEP § 2142; 8<sup>th</sup> Edition, Rev. 1, Feb. 2003, Pg. 2100-124].

Regarding claims 6-36, the Office Action admits that Vega "fails to teach a network interface to communicate with a central server, an input device comprises of a keyboard, a barcode scanner, a processor capable of receiving a digital photograph of the guest/user." [Office Action, page 5, lines 1-3].

However, the Office Action alleges that Weston discloses a "system for automated photo capture and retrieval, which includes a RFID tag 300 (see Fig. # 3B of Weston et al.; col. 7, lines 1+), a RFID reader 520 (see fig. #5 of Weston et al.); a network interface/AXCESS to communicate with a central server (col. 10, lines 5+), an input device comprises of a keyboard, a barcode scanner (col. 8, lines 52+), a processor 280 capable of receiving a digital photograph of the guest/user (as shown in Fig. # 2 of the Weston; col. 6, lines 50+). [Office Action, page 5, lines 4-9]. Applicant respectfully disagrees.

Generally neither Vega nor Weston, alone or in combination, disclose a point of sales terminal or system with a network interface to communicate with a server to sell an item or service to a guest using an identification tag within a coverage area.

However, the Office Action alleges that Weston at col. 10, lines 5+ discloses a network interface. Applicant respectfully disagrees. Weston only states that "[s]uitable long-range RF tags and readers may be obtained from a number of suitable

sources, such as AXCESS, Inc. and, in particular, the AXCESS active RFID network system for asset and people tracking applications." [Weston, col. 10, lines 3-6].

Regarding independent claim 10, neither Vega nor Weston, alone or in combination, disclose "a network interface to communicate with a central server." [Claim 10, lines 7-8].

Moreover neither Vega nor Weston, alone or in combination, disclose a "processor to cause a **transmission of said tag identifier and said information to said central server by way of said network interface**, and to **receive a completion of transaction message from said central server by way of said network interface**" as recited in Applicant's amended claim 10. (emphasis added) [Claim 10, lines 10-17].

Furthermore, Applicant respectfully submits that the Office Action has provided no reasonable suggestion or motivation to modify Vega with Weston or combine Vega and Weston together.

"[T]he examiner must present a convincing line of reasoning as to why the artisan would have found the claimed invention to have been obvious in light of the teachings of the references." [MPEP § 706.2(j), Original 8<sup>th</sup> Edition, Aug. 2001, Pg. 700-31; citing *Ex Parte Clapp*, 227 USPQ 972, 973 (Bd. Pat. App & Inter. 1985)].

Additionally, there is not a reasonable expectation of success in combining Weston with Vega. Vega teaches an electrostatic type of RFID tag to capacitively couple to an electrostatic type of reader. "In operation, exciter 802 generates a signal that is electrostatically (capacitively) coupled to integrated circuit 116 from electrostatic antenna elements 806, 808 to electrostatic antenna elements 112, 114." [Vega, Col. 9, lines 17-21]. As illustrated in Vega's Figures 1, 11, and 14, the electrostatic antenna elements are

rectangularly shaped capacitor plates. In contrast, Weston teaches an electromagnetic type of RFID tag to inductively couple to an electromagnetic type of reader. Weston's tag 300 illustrated in Weston's Figure 3B includes "a spiral wound antenna". [Weston, Col. 7, lines 23-24].

Because of these differences in the electrical coupling, electrostatic RFID tags cannot be read by electromagnetic readers and electromagnetic RFID tags cannot be read by electrostatic readers. Thus, it is improper to combine Weston with Vega as there is not a reasonable expectation of success.

For the foregoing reasons, Applicant respectfully submits that independent claims 1, 10, 23, 26, 29, 32, and 35 are not made obvious by the combination of Vega and Weston.

Regarding the rejected dependent claims, rejected claims 4, 6-9 depend directly or indirectly from independent claim 1. Rejected claims 11-22 depend directly or indirectly from independent claim 10. Rejected claims 24-25 depend directly or indirectly from independent claim 23. Rejected claims 27-28 depend directly or indirectly from independent claim 26. Rejected claims 30-31 depend directly or indirectly from independent claim 29. Rejected claims 33-34 depend directly or indirectly from independent claim 32. Rejected claim 36 depends directly from independent claim 35.

Applicant believes that it has placed independent claims 1, 10, 23, 26, 29, 32, and 35 in condition for allowance such that dependent claims depending there from with further limitations are also in condition for allowance. Thus, Applicant respectfully submits that dependent claims 4, 6-9, 11-22, 27-28, 30-31, 33-34, and 36 are also in condition for allowance.

Accordingly, Applicant respectfully requests the withdrawal of the 35 USC 103(a) claim rejections of claims 4 and 6-36.

IV) New Claims

Applicant has added new dependent claim 37.

New claim 37 depends from independent claim 1

Applicant believes it has placed independent claim 1 in condition for allowance such that dependent claims depending there from with further limitations are also in condition for allowance.

Applicant respectfully submits that new claim 37 is in condition for allowance.

V) Claim Amendments

Applicant has amended claims 1, 4-10, 15-16, 23, 25-32, and 35 by this response.

As discussed previously, Applicant has amended independent claims 1, 10, 23, 26, 29, 32, and 35 to clarify the claimed invention.

Claim 1 was amended to clarify that the guest data object and monetary credits information are stored in a server. Claim 1 was further amended to clarify that the method of selling the item or service to the guest occurs at a point-of-sales terminal within a coverage area. Claim 1 was further amended to better clarify how the monetary credits are modified by rearranging the phrase "by a sales amount of said item or service" within the claim.

Claim 10 was amended to clarify that the processor couples the elements together.

Claim 23 was amended to clarify that the network interface of the central server may communicate with one or more point of sales systems. Claim 23 was further amended to clarify that the processor couples the elements together.

Claims 26, 29, 32, and 35 were amended to clarify that the claimed invention is used to sell an item or service to a guest within a coverage area.

Claim 29 was further amended to correct at typographical error in the phrase "guest data objected" to --guest data object--.

Claim 4 was amended to clarify that the processor is of the server.

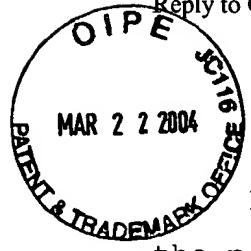
Claims 6-9 and 25 were amended to be consistent with the amendments to the independent claims from which they depend.

Claims 6, 15-16, 27-28, and 30-31 were also amended to correct punctuation therein.

These amendments to these claims were made for reasons unrelated to patentability.

#### VI) Specification Amendments

Applicant has amended Paragraph No. 42 on page 11 of the specification to correct the incorrect phrase "guest data object 900" to the proper phrase --group data object 900-- so its consistent with the usage elsewhere in the specification and the figures. A grammatical error has also been corrected therein.



CONCLUSION

In view of the foregoing it is respectfully submitted that the pending claims are in condition for allowance.

Reconsideration of the rejections and objections is requested. Allowance of the claims at an early date is solicited.

The Examiner is invited to contact Applicant's undersigned counsel by telephone at (714) 557-3800 to expedite the prosecution of this case should there be any unresolved matters remaining.

To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees in connection with the filing of this paper, including extension of time fees, to Deposit Account 02-2666 and please credit any excess fees to such deposit account.

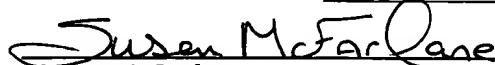
Respectfully submitted,  
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I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to Commissioner for Patents, P.O. Box 1450 Alexandria, VA 22313-1450 on: March 19, 2004.

  
Susan McFarlane 3/19/04  
Date